

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMMISSIONS IMPORT EXPORT S.A.,

Judgment Creditor,

-against-

REPUBLIC OF THE CONGO,

Judgment Debtor.

Case No. 1:14-mc-00187 (AJN)

**DECLARATION OF CHARLES R. JACOB III
IN OPPOSITION TO ECREE LLC'S
MOTION TO QUASH SUBPOENA
AND IN SUPPORT OF CROSS-MOTION TO COMPEL**

CHARLES R. JACOB III hereby declares under penalty of perjury:

1. I am a member of the Bars of this Court and the State of New York and a director of Goulston & Storrs PC, attorneys for Judgment Creditor Commissions Import Export S.A. ("Judgment Creditor"). I submit this Declaration (i) in opposition to the September 17, 2021 motion of Ecree LLC ("Ecree") to quash the subpoena (the "Subpoena") served on it by Judgment Creditor on July 19, 2021 in aid of the Amended Judgment (the "Judgment") entered by this Court against Republic of the Congo (the "Republic") (Doc. 20), and (ii) in support of Judgment Creditor's cross-motion to compel Ecree to comply with the Subpoena.¹

¹ The cross-motion is made for the limited purpose of procedural clarity that Ecree must produce the documents requested by the Subpoena in the event the Court denies Ecree's motion to quash.

2. The Court entered the Amended Judgment against the Republic in the amount of \$722,562,221.53 plus interest on July 17, 2020 (Doc. 20). The Judgment remains unsatisfied. The matter before the Court concerns post-judgment discovery.

3. Annexed hereto as Exhibit 1 is an article from the *New York Times* on April 10, 2019, referring to the President of the Republic, Denis Sassou-Nguesso (the “President”), as “a longtime target of anti-corruption investigators” believed to have “siphoned [funds from the Republic’s] government,” and discussing the luxury condominium unit (the “Condo”) in Trump International Hotel and Tower in Manhattan that Ecree purchased for \$7 million in cash.

4. In previous post-judgment discovery in this proceeding – not objected to by that non-party – the Board of Managers of the condominium produced documents showing, *inter alia*, that the occupant of the Condo would be the President’s daughter, Claudia Lemboumba Sassou-Nguesso (the “President’s Daughter”). Annexed hereto as Exhibit 2 are documents produced by the Board of Managers in that previous post-judgment discovery.

5. Exhibit 2 shows that the President’s Daughter submitted her own personal financial statement and references as an applicant to purchase the Condo; this documentation also refers to her as the “owner” and the “purchaser.” As her financial statement showed assets of substantially less than \$7,000,000 (amount redacted for filing), it is a reasonable inference that the cash of \$7,000,000 being used to purchase the Condo for the President’s Daughter was not her money – it was the Republic’s money.

6. To obtain further evidence of this, on July 19, 2021 Judgment Creditor served the Subpoena on Ecree (copy annexed as Exhibit 3). Prior written notice of the Subpoena was given to Ecree’s counsel on July 16, 2021 (copy annexed as Exhibit 4). Ecree did not object to the Subpoena within 14 days, or meet and confer with me. On August 19, 2021, Ecree’s counsel

filed a letter requesting a pre-motion conference to discuss a proposed motion to quash the Subpoena. Doc. 21. The Court denied that request. Doc. 23.

7. In 2020, the United States Department of Justice (“DOJ”) filed a Complaint (copy annexed as Exhibit 5)² in the Southern District of Florida alleging in detail how funds of the Republic were embezzled by the President’s family to buy a luxury condominium in Miami for the President’s son (brother of the President’s Daughter). The DOJ describes a scheme “to launder money embezzled from” the Republic for the benefit of the President’s children. Among the points made by the DOJ in its Complaint:

- a. The President allowed the President’s son to “embezzle[] millions of dollars” from the Republic and its state-owned entities (Exh. 5 ¶ 17);
- b. This was done through “a network of bank accounts in the names of shell companies and nominees [like Ecree here] to attempt to conceal the money” (*id.* ¶ 18);
- c. The President and his family members have been investigated and charged with “corruption, money laundering and related crimes around the world” (*id.* ¶ 12) involving their “pattern in acquiring real property” (*id.* ¶ 72), generally in a manner substantially identical to the use of Ecree here.

8. Ecree, a New York LLC, is now listed as “Suspended” on the records of the New York Secretary of State. *See* Exhibit 6 annexed hereto.

² *United States of America v. Real Property Located at 900 Biscayne Boulevard, Unit #6107, Miami, FL 33132*, 1:20-cv-22427-MGC (S.D. Fla.).

9. Exhibit 2 hereto includes a reference letter for the President's Daughter (not Ecree) submitted by Costwolds Partners to the Board of Managers of the condominium in connection with Ecree's purchase of the Condo. Exh. 2, third page.

10. Annexed hereto as Exhibit 7 is a copy of an Order entered by the United States District Court for the District of Columbia holding the Republic in contempt of court for failure to provide judgment enforcement discovery in related proceedings in that court. Pursuant to that Order, the Republic is incurring (but not paying) penalties of \$80,000 per week.

11. Annexed hereto as Exhibit 8 is a copy of an Order entered by the United States District Court for the District of Columbia authorizing Judgment Creditor to "pursue all applicable methods of attachment or execution" of assets belonging to the Republic, with respect to the judgment now registered in this Court as the Amended Judgment.

I hereby declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on: October 1, 2021



CHARLES R. JACOB III